

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
Judge Robin L. Rosenberg**

Civil Action No. 9:23-cv-81289

UNITED STATES SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

LUFKIN ADVISORS, LLC and
CHAUNCEY FORBUSH LUFKIN III,

Defendants.

MOTION TO RELEASE ESCROW FUNDS

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Attorneys for Defendants Lufkin Advisors, LLC and Chauncey Forbush Lufkin III.

PRELIMINARY STATEMENT

Defendants, Lufkin Advisors, LLC and Chauncey Forbush Lufkin III (collectively “Defendants”), by and through undersigned counsel, Drohan Lee LLP, hereby submit this Motion to Release Escrow Funds (this “Motion”) and in support thereof, state as follows:

1. The Securities and Exchange Commission (the “SEC”) has consented to the filing of this Motion .

2. On March 19, 2024, this Court granted Defendants’ Unopposed Motion for Partial Relief from the Asset Freeze [Dckt No: 32] and ordered specifically: “1. The release of all assets currently frozen with the exception of \$3.2 million; 2. The establishment of a Special Escrow Account entitled Lufkin Advisors, LLC Special Escrow Account to be maintained by Drohan Lee LLP at Capital One Bank; 3. The transfer of \$3.2 million into the Special Escrow Account at Capital One Bank by the financial institutions currently holding the assets sought to be transferred; and 4. The provision of documentation by Defendants to the SEC demonstrating the establishment of the account and the transfer and holding of the funds.”

3. Pursuant to the foregoing order, an escrow fund (the “Escrow Fund”) was established by Drohan Lee LLP, as “Escrow Agent,” under the terms and conditions of that certain Escrow Agreement dated March 21, 2024 attached hereto as Exhibit 1 (the “Escrow Agreement”). Section 5 of the Escrow Agreement provides that “no amount from the Escrow Fund shall be released until such time as, and to the extent that, the Court orders its release.” Currently, the total amount in the Escrow Fund is \$3,234,417.11.

4. On June 25, 2024, the Court entered Final Judgments against Chauncey Forbush Lufkin III and Lufkin Advisors, LLC [Dckt. Nos: 38 and 39, respectively] allowing for full settlement of this action (the “Settlement”). Pursuant to the terms of the Settlement and valuation

of the L.A. Floating Fund LP, the Escrow Agent requests the Court to order the following distributions from the Escrow Fund:

(a) Three Hundred Nine Thousand Seven Hundred Sixty-Nine Dollars (\$309,769.00) to the SEC on behalf of Defendant Lufkin Advisors, LLC, in payment of the Final Judgment against it;

(b) One Hundred Fifteen Thousand Two Hundred Thirty-One Dollars (\$115,231.00) to the SEC on behalf of Defendant Chauncey Forbush Lufkin III in payment of the Final Judgment against him;

(c) Nine Hundred Fourteen Thousand Six Hundred Fifteen and 50/100 Dollars (\$914,615.50) to Marianne Wallace;

(d) Nine Hundred Fourteen Thousand Six Hundred Fifteen and 50/100 Dollars (\$914,615.50) to Kirk Wallace;

(e) Twenty-Four Thousand Two Hundred Fifty-Eight and 13/100 Dollars (\$24,258.13) to the Escrow Agent; and

(f) One Hundred Eighty-Four Thousand Six Hundred Twenty-Six and 98/100 Dollars (\$184,626.98) to Defendant Lufkin Advisors, LLC.

Three Hundred Fifty Thousand Dollars and 00/100 (\$350,000.00) will be kept in the escrow account subject to the terms of the Escrow Agreement. Two Hundred Three Thousand Two Hundred Forty-Seven Dollars and 94/100 (\$203,247.94) represents a ten percent holdback of the amounts owed to Marianne and Kirk Wallace.

5. The Defendants will move the Court at a future date to release any amounts owed by the Defendants pursuant to Section IX of the respective Final Judgments against them, which

specify that “Defendant shall pay post-judgment interest on any amounts due after 30 days of the entry of this Final Judgment pursuant to 28 USC § 1961.”

WHEREFORE, we respectfully request the foregoing amounts be released from Escrow Fund.

Dated this 30th day of September 2024

Respectfully submitted,

/s/ Vivian Rivera Drohan
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and Chauncey Forbush Lufkin, III

CERTIFICATE OF CONFERRAL

Pursuant to Local Rule 7.1(a)(3)(A), I hereby certify that counsel for the movant has conferred with all parties. The SEC has consented to this motion.

/s/ Vivian R. Drohan
Vivian R. Drohan

CERTIFICATE OF SERVICE

I hereby certify that on October 1, 2024, I electronically filed the foregoing UNOPPOSED MOTION TO DISTRIBUTE ESCROW with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or *pro se* parties identified on the attached Service List in the manner specified, either via transmission of Notice of Electronic filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to received electronically Notice of Electronic Filing.

/s/ Blaine Hibberd
Blaine H. Hibberd

SERVICE LIST
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CHAUNCEY FORBUSH LUFKIN III
CASE NO.: 23-CV-81289-RLR
UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT OF FLORIDA

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